IN THE HIGH COURT JUDICATURE AT BILASPUR (CHATTISGARH)

WRIT PETITION NO. 370 OF 2002

UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA

PETITIONERS : 1. Mohammed Habib khan son of Rasool khan, Time Keeper

2. Pravesh Kumar Masih son of Daud Masih , Time Keeper

3. Raghuwar Prasad son of Moti Ram Helper

4. Parmeshwar Yadav son of Laxmi prasad , Helper .

All residents of village Barpali , Left Bank Kanal Sub Division no.3 Barpali (Korba) District Korba (Chattisgarh)

P. R. No. 370 Presented by Shri Alok Bafna dated 15.3.02

VERSUS

RESPONDENTS 1. State of Chattisgarh through Secretary Water Resources Department D.K.S Bhawan Raipur

2. Engineer in Chief Water Resources Department D.K.S Bhawan-Raipur

3. Chief Engineer Water Resources Department Behind Civil Court Bilaspur

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 370 of 2002

Petitioners Mohammed Habib Khan & others

Versus

Respondents State of Chhattisgarh and others

Single Bench : Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Alok Bakshi, counsel for the petitioners.

Shri V.V.S. Moorthy, Deputy Advocate General with Smt. Anju Ahuja, Deputy Government Advocate for the respondents/State.

ORAL ORDER

(4th April, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petition filed under Article 226 of the Constitution of India seeks a direction to regularize services of the petitioners on the post of Ameen with all consequential benefits.

2. The petitioners were employed as Time Keeper in the Water Resources Department, Sub Divisional No. 3, Hansdeo Left Bank Canal Barpali, District Korba. According to the petitioners, the petitioner No. 1 was appointed on 1.8.1982, the petitioner No. 2 was appointed on 1.3.1985 and the petitioner No. 3 was appointed on 1.9.1981 as Time Keepers. It is further stated that by the circulars dated 9.1.1990, 9.1.1996, 27.7.1998 and 7.3.1991, it was prescribed by the State Government that the employees appointed prior to 31.12.1988 on daily wages/temporary basis, would be considered for regularization. It is submitted that the petitioners have completed training for the post of Ameen Patwari and about 129 posts of Ameen Patwari are

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vacant in the respondent department. According to the petitioners, the petitioners have sent several representations to the Government but no action was taken.

3. Learned counsel appearing for the petitioners submits that the petitioner No. 1 has obtained 10 years experience and further possesses the required qualification for regularization as prescribe under the circular dated 29.7.1993 (Annexure R/1). Contention of learned counsel for the petitioners is that the petitioners No. 2 and 3 did not have requisite experience at the time of filing the application.

4. Shri V.V.S. Moorthy, learned Deputy Advocate General with Smt. Anju Ahuja, learned Deputy Government Advocate, per contra, submits that the respondents have made their stand very clear in para 5.4 of the reply, which reads as under :-

> "As regards the contents of this paragraph of the petition, it is, respectfully, submitted that the petitioner No. 1, 2 and 3 are working as Field Assistant {Time Keeper}. It is admitted that the petitioners have not yet been regularized on the respective post and, are drawing salaries on daily wages employees. It is, further, respectfully, submitted that the regularization to the post are made only against the regular vacant post on work-charged establishment. Since, the name of petitioner no. 1 appears at Srl. No. 98 of the gradation list, the petitioner no. 2 at Srl. 260 and petitioner no. 3 at Srl. No. 71 and petitioner no. 4 is a Helper under a separate gradation list appears at Srl. No. 100, therefore, persons senior to the petitioner will be entitled for the regularization on priority against the petitioners, against regular vacant post, therefore, the petitioners are not entitled for regularization".

5. It was further stated that there was 66 posts of Ameen are lying vacant as on 4.2.2005. It was further contended that the case of the petitioners will be considered in accordance with the circular dated

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29.7.1993, subject to availability of vacancies. There are several other similarly situated employees, who are working as Ameen on daily wages basis, having more experience and required qualification are available for regularization.

6. In view of the categorically stand taken by learned counsel for the respondents, it does not require further adjudication on the question of experience and require qualification.

7. Learned counsel for the petitioners is not aware about the qualification of the petitioners except the petitioner No. 1 had obtained 10 years experience as per the circular issued by the Sub Divisional Officer, Hasdev Left Bank Kenal Barpali, District Korba, Sub Division.

8. For the reasons stated above, the petitioners succeeds to the extent that the respondents are directed to consider the case of the petitioners, in accordance with law, as per the circular dated 29.7.1993 (Annexure R/1) and pass the appropriate order within a period of three months, accordingly if the petitioners are found eligible for regularization.

9. The petition is accordingly allowed to the above extent. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur